27 MAY 1981

U.S. House of Representatives

COMMITTEE ON ARMED SERVICES

Washington, D.C. 20515

NINETY-SEVENTH CONGRESS

MELVIN PRICE (ILL.), CHAIRMAN

May 15, 1981

The Honorable James L. Buckley
Under Secretary for Security Assistance,
Science and Technology
Department of State
2201 C Street
Washington, D. C. 20520

Dear Mr. Buckley:

This is in response to your April 30 letter regarding the future political status of the Trust Territory of the Pacific Islands known as Micronesia.

I appreciate this opportunity to comment on the subject. In any new relationship between Micronesia and the United States, our national security interests in the Pacific must be protected. Therefore, I believe the United States should insist that there be a permanent ban on the military presence of any third power in Micronesia unless consented to by our government. Such a restriction is imperative to protect our interests, for example, in Palau which is strategically located only 1,000 miles east of the Philippines and on the important oil sea lanes in that part of the world. Anything less than exclusive American military rights to Micronesia could invite third power adventurism in the region.

Since our committee's primary interst in this matter is protection of our national security, I am commenting only on that aspect of any future compact between the United States and Micronesia. However, I do wish to thank you for inviting my views on this very complex issue.

Sincerely,

Melvin Price
Chairman

MP:ptg

Not referred to DOI. Waiver applies

State Dept. review completed

DANIEL K. AKAKA
SECOND DISTRICT, HAWAII

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20 MAY 1981

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May 18, 1981

Mr. James L. Buckley
Under Secretary of State for Security
Assistance, Science & Technology
Department of State
Washington, D. C. 20250

Dear Mr. Buckley:

This is in response to your April 30 letter asking for recommendations on U.S. interests and options with respect to Micronesia.

I commend you for extending the opportunity for comment on this issue to parties outside the Interagency Group on Micronesia. As a representative from Hawaii, I have followed recent developments in Micronesia with special interest.

The future of Micronesia is an important issue in our region, and many in Hawaii share a deep concern about the successful conclusion of our negotiations with the Micronesians.

I wish to offer the following comments in response to your questions:

Under what conditions is it appropriate for us to terminate the U.N. Trusteeship?

It is appropriate for us to terminate the U.N. trusteeship when the Micronesians have demonstrated that they are ready and willing to end the trust arrangement. As I indicate in the response to the question that follows, I believe they have already demonstrated this, although it would not be proper for us to end economic assistance once an agreement is implemented. As a condition to ending the trusteeship, the United States should seek assurances that our national security interests will be safeguarded. The sections of the Compact of Free Association dealing with national security appear to be adequate for this purpose.

Finally, it is sufficiently clear from the terms of the International Trusteeship System established under the U.N. Charter that the transition of trust territories to a status

of self-government is expected. The history of territories placed under trusteeship also points to this conclusion. Of the eleven territories placed in international trusteeship after World War II, ten have successfully negotiated transition to self-government or independence from their administering authority. The only remaining agreement to be concluded is that of the Trust Territory of the Pacific Islands (Micronesia).

Negotiations by the Carter Administration and previous administrations have been based upon this understanding. Both the transition of other territories from a status of trusteeship to that of self-government and the history of our negotiations with the Micronesians towards this end have raised their expectations. Now that an agreement has been initialed, failure to terminate the trusteeship upon its acceptance by the governments and peoples involved would irreparably harm our future relations with Micronesia and our ability to successfully negotiate an eventual conclusion of the trusteeship. In addition, the eyes of Asia and the Pacific are upon the United States in this matter, and the Reagan Administration will be judged by a successful resolution of the Micronesian Trusteeship.

Do you think the Micronesian demand for self-government is realistic?

A system of government is in place in all the separate Micronesian entities that still have to conclude their trusteeship arrangement with the United States. These governments respond sufficiently to the needs and interests of their citizens. With the termination of the trusteeship, the existing governments would be well-suited to assume the additional responsibilities of increased autonomy under a system of self-government.

On this point, we should not make the mistake of judging self-government by the standards of American self-government. To do so would be insensitive to the level and complexity of government necessary to meet the needs and desires of Micronesians.

An assessment of the actual demand for self-government will be made during plebiscites in the Trust Territory. This process is in accordance with the objectives of the U.N. mandate that transition from the trusteeship arrangement represent the freely expressed wishes of the peoples concerned.

If we terminate, what sort of political status should Micronesia have--territorial status, independence, free association, or something else such as statehood?

As is evident from the result of recent negotiations--the Compact of Free Association--political status in the nature of full independence is not presently the interest of the Micronesian delegations. To assume a position that urges greater independence for Micronesia would be imposing upon these peoples a political status that the Micronesian delegations feel their people are not yet ready to accept. On the other hand, to urge political status for Micronesia that is less independent than that which has been negotiated would deny Micronesians the opportunity to develop towards meaningful self-government, as outlined by the objectives of the International Trusteeship Charter.

Plebiscites on the Compact of Free Association should be the final determination of the desires for self-government and independence in Micronesia. As for the United States, any attempt to impose a form of government or a degree of independence upon Micronesia would violate the principles upon which the Trusteeship System was founded and destroy our future relations with the Micronesian States.

Are there unresolved issues associated with the Compact?

Yes, there are two issues that need to be clarified.

1) What agency of the U.S. Government will have the responsibility for federal programs extended to the self-governing states that evolve from the Trust Territory?

The Departments of State, Defense, Interior and perhaps the Office of the President could reasonably assert a claim for authority over federal programs extended to Micronesia. The Office of Territorial Affairs (OTA) in the Department of Interior has historically administered programs in the Trust Territories. Unfortunately, the record of OTA in this area is dismal. OTA has consistently shown a lack of interest, understanding, and advocacy for the special needs of the Trust Territories. Of the possible candidates for administration of federal programs, however, the Department of Interior is the only one with experience in the area of program delivery. .If OTA is to continue to be vested with this authority, its advocacy for the needs and interests of

Micronesia must be heightened out of respect for their new autonomy.

2) Section 314 of the CFA dealing with the handling of nuclear, chemical or biological material requires special attention. It is evident that defense-related handling of these materials and non-defense-related handling of these materials require different levels of consultation with the Micronesians. Yet, precisely what is required is unclear.

Given our past careless attitude about the effect of nuclear weapons storage and detonation in the Pacific, we cannot fail to assure the Micronesians that their wishes on the handling of nuclear materials in their area will be fully respected.

The distinction between defense-related and non-defense-related handling of chemical, nuclear and biological materials needs to be clarified. The language should reflect a very strong U.S. commitment to protecting the Micronesians from the effects of any of these materials.

What provisions do we need to make for the protection of our national security interests in the Pacific?

The United States should be able to exercise its legitimate national security interests in the Pacific in defense of our Nation and the States of Micronesia under the terms of the Compact of Free Association. In exercising its interests, however, it is essential that our government consult with and, in every possible instance, obtain the prior consent of the Micronesian States. To be effective, this consultation should commence at a point early enough to provide the opportunity for follow-up discussion and accommodation. While such a policy will be difficult to follow, it is essential if the governments and peoples of Micronesia are to be given the respect they deserve under their new political status.

What kind of obligations do you think we have to the people of Micronesia? Will these obligations continue if the Trusteeship is terminated?

The United States assumed a moral obligation when it accepted the administering authority of the Trust Territory of the Pacific Islands. We have a commitment to ensure a viable self-government for the people of Micronesia that is free from exploitation by ourselves or foreign governments.

This obligation is consistent with, and dictated by, our own founding principles.

Right now, the Micronesians benefit from a number of Federal programs in health, education and related fields and from Federal postal, weather, air-navigations services and the like. Should these be continued, and if so how?

The termination of the trusteeship will not mean the termination of the moral obligations we assumed as an administering authority. As the Micronesians achieve self-government, continued assistance by the federal government under programs legislated by the United States Congress will amount to a new classification for assistance, falling somewhere between foreign aid and domestic social programs. The nature and degree of our assistance may vary depending upon the degree of independence that the various states of Micronesia achieve. Some consideration must be given to the fact that the many requirements included in domestic legislation will not suit the customs and conditions that are unique to Micronesia.

There is general recognition that we have special obligations to people who suffered from fall-out or were moved away from their home islands during the nuclear testing program at Bikini and Eniwetok. This is a complicated subject with a good deal of legislation already on the books and with lawsuits now filed by people of Bikini (and by Americans in several Western states). What sort of provisions should we make for these people?

Many of our "good intentions" have not met with success. In attempting to support the people of Bikini and Eniwetok, we have caused them to become highly reliant on the government dole. Complete dependence on others is not the traditional way of these people; historically, they have been a proud and independent race.

Rather than continuing this relationship of dependence, we must seek a way to restore independence to these people. In the future, we should be careful not to move people away from their homes so that we can test new "weapons"; this practice has created more problems than we ever bargained for.

Again, I thank you for the opportunity to comment on this important issue. I look forward to hearing from you again as the Interagency Group on Micronesia meets to

resolve these issues, and I would welcome the opportunity to comment further as the need arises.

Aloha pumehana,

Daniel K. Akaka

DANIEL K. AKAKA
Member of Congress

JONATHAN B. BINGHAM
22D DISTRICT, NEW YORK

COMMITTEES:
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Congress of the United States
House of Representatives
Washington, D. C.

NORTHEAST-MIDWEST CONGRESSIONAL COALITION
BANKING COMMITTEE
"HELSINKI" COMMISSION ON SECURITY AND COOPERATION IN EUROPE
GORDON C. KERR
ADMINISTRATIVE ASSISTANT

May 11, 1981

18 MAY 1981

The Honorable James L. Buckley
Under Secretary of State
for Security Assistance, Science and Technology
Department of State
Washington, D.C. 20520

Dear Jim:

Thanks for asking for my opinions on Micronesia. It would take several thousand words to answer your questions adequately, but, under pressure of time, here are some observations that bear on at least some of your questions.

The Trusteeship should come to an end soon. It is an international embarrassment for us that we should be the only administering authority of a trusteeship set up under the U.N. Charter that has not given independence to its charges.

We can in fact appropriately withdraw from the responsibility of administering the area whenever we have arrived at agreements satisfactory to the majority of the Micronesians giving them the right of self-determination, which in my view must include the option of independent statehood. We may have to face the fact that the Security Council will not approve the termination, either for want of a majority of votes, or because of a Soviet veto.

Whether or not the Micronesian demand for self-government is "realistic", we are solemnly obligated to respond to that demand. Actually, their demand is just as realistic as that of many other "mini-states". Politically, it is perfectly realistic, even though they will have serious economic problems.

I am not familiar in detail with the Compact of Free Association. I have the impression that it is the product of extensive and intensive negotiations, and therefore should be regarded as the basis for a final solution.

We will continue to need access to some of the islands of Micronesia for defense purposes, and we should be in a position to deny access to an unfriendly power.

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If the Trusteeship is terminated, we will have to continue to help the Micronesians economically. How much help will have to be a matter of continuing negotiation.

As for the people who suffered from our nuclear testing program, we should be generous and try to recompense them for the damages they suffered.

I hope these thoughts will be helpful.

Sincerely,

JBB:PLA

Jonathan Bingham

APPENDIX B

Comments by Department of the
Interior on the Subject
of Institutional Arrangements

Post-Trusteeship Administration
Views of the Department of the Interior

The Department of the Interior would prefer to have the Administration determine at this time that the post-Trusteeship relationship between the Federal Government and the Freely Associated States of Micronesia will be administered by the Department of the Interior, if the Compact becomes effective. The Interior Department believes it is in the national interest for administration of the Federal relationship to the freely associated states to be vested in the same office that has the responsibility for managing the Federal relationship to other closely-associated entities. Designation of Interior would also be advantageous in order to permit the Department to develop plans for the administration of the Compact's provisions, for transition of the Micronesian governments to their future status, and for long-term budget changes. Interior agrees, however, that discussion of post-trusteeship administration should not delay the negotiations or adversely affect the U.S. negotiating posture. The negotiations should be resumed quickly to achieve the objectives that all of the participating agencies in this review have agreed to promote. The Department of the Interior is, therefore, willing to agree to the deferral of the decision on post-Trusteeship administration, while expressing its views and analysis of the issue as an addendum to the policy review paper.

The Department is also willing to discuss any options that would attempt to reconcile the difficult political requirements for the approval of the compact by the Congress as well as by the people of Micronesia and by the United Nations.

The hallmark of United States policies on the political status aspirations of associated peoples has always been an accommodating flexibility toward the developing needs of particular areas. Political development is not static, and the Department of the Interior supports the establishment of a relationship with Micronesia that encourages continued dialogue between the Federal Government and the Micronesian governments.

We regret that in its draft of the Micronesia policy review paper, the State Department has constructed a framework for discussion that creates artificial distinctions and establishes a bias that we believe is not in the interest of a continuing and close relationship between Micronesia and the United States. The Federal relationship to territories has withstood international scrutiny, but the State Department paper discusses "international" and "domestic" practice in relations with associated governments as though the latter were somehow illegitimate. The paper speaks of "bifurcations" of "political" and "administrative" policy in Micronesia as though administrators have not been attuned to political developments, and that clearly has not been the case. Most crucially, the paper attempts to solidify concepts of political relationships that have always, purposefully, been kept flexible. The paper's approach may have been inspired by a desire to "sort out" policy options, but the Interior Department sees it as leading to a narrow, rigid, and unaccommodating result in the conduct of the nation's relations with associated people.

The Department of the Interior strongly supports the suggestion in the report that "friendly relations" between the Micronesian governments and the Federal Government are necessary for the protection of United States defense, security, and foreign affairs interests. Friendly relations, however, are not established merely by amounts of money, immediate resolution of matters of mutual concern, or acquiescence in all Micronesian desires. The relationship that is needed between Micronesia and the Federal Government is one that would orient the people and leaders of Micronesia to the United States in a way that requires reciprocal institutional attention and establishes a permanent dialogue between the Micronesian governments and the Federal Government. The Department of the Interior supports the concept of the Compact of Free Association because it is a reflection of the political development aspirations of the Micronesians, worked out by their leaders over twelve years of negotiations with the Federal Government.

There are very few provisions of the Compact , however, that will have the effect of promoting and maintaining continuing connections between the Freely Associated States and the Federal Government. It is imperative, therefore, that if the Administration moves forward with that document, the institutional handling of the relationship be such as to provide an effective avenue of consultation between the Micronesian governments and the United States.

The United States Constitution vests the authority over territorial relations in the Congress, and regardless of whether the theoretical legal basis for trusteeship rests with that body, the decision has already been made to seek the approval of both houses before the Compact becomes effective. There are members of Congress who have devoted a great deal of attention over the years to the development of Micronesia's political status, and there are many who fought for their country in Micronesia during World War II. Their views will, in large part, determine whether free association comes into being. Those who will deal with the Compact when it is sent to the Hill have clearly expressed their reservations on the document. They will only grudgingly give up the Congress's legislative authority over Micronesia, and they will insist on retaining some ability to pass legislation that may affect the people of Micronesia or the administration of the new relationship. The laws of the United States will not be supreme in Micronesia, but it may be in the interest of the United States, and not merely the concern of key Congressmen, to develop institutional avenues of access between Micronesian governments and the Congress under the new status of free association.

Key Members of Congress have expressed their desire that the Interior Department carry on the role of administering the U.S. relationship to Micronesia. Congressional assumptions are that if the State Department administers the relationship, the Micronesians will find themselves treated as though they were foreign, the relationship will loosen, and the Micronesian governments will be pushed prematurely toward complete independence. It seems reasonable to assume that this type of political development will occur in an environment where Micronesians would tend to compare themselves to foreign nations. The concerned Congressmen believe that if the Micronesian govenments are treated by the same office that deals with territorial governments, Micronesia will tend to continue to view itself as linked to the United States. Since Micronesian leaders

are not likely to view their status as inferior to that attained by territories, and since their status will probably be viewed with some awe by territorial governors, it is not unreasonable to assume that, within Interior, the special Micronesian relationship to the United States will develop in an environment conducive to an understanding of the uniqueness and the significance of the status of free association.

Political status talks with the Micronesians have not been conducted in a vacuum, and the Micronesians are not the only people who explore political status questions with the Federal Government. In light of the long history of the development of political relationships with closely associated areas, the status of free association is merely the most recent accommodation of associated people's aspirations by the United States. The Interior Department does not see free association as a break with longstanding territorial policy, and it would be unwise to do so. There are aspects of free association that will appear appealing to Guam, the Virgin Islands, American Samoa, Puerto Rico and the Northern Mariana Islands, and the governments of these areas will demand that their status be dealt with in a way that takes into account precedents established in Micronesia. The status of U.S. territorial areas is not a matter that has been resolved with finality. Political development discussions are a permanent fixture of the Federal relationship to all such areas, and it is likely that such discussions will continue to be an integral part of our continuing relationship with the Micronesian governments. For the Federal Government to remove the administration of its relationship to Micronesia from the administration of other offshore associated governments would be a step that would compel adverse consequences in overall territorial policy.

United States consideration of the political development aspirations of associated peoples has been characterized by our ability to adapt to the unique circumstances of every associated area. The Compact of Free Association is similarly an acceptable method of meeting the peculiar demands of Micronesia's current situation. There are provisions in the Compact, however, that can be handled in a way that will encourage closer institutional relationships between the Micronesian governments and the Federal Government. The Compact's national development plans can be handled as similar territorial development plans are handled, by Federal review of the plans and presentation to Congress. Audits in Micronesia can be performed in much the same way that the same function is performed in the territories. In the relationship between the Micronesian governments and specific Federal agencies, the relationship could be advanced by providing an Executive Office that would act on the Micronesian governments' behalf, to facilitate action on the numerous issues that may arise as various Federal agencies encounter special circumstances in handling Micronesian concerns. The Compact envisions a number of procedures for the arbitration of disputes that arise between the Micronesian governments and the State Department or the Defense Department. It would be beneficial to stabilize the Micronesian relationship by having a separate Federal office monitoring such disputes with an eye toward insuring that the Micronesians receive a full hearing. The Compact's provisions, and the types of Federal actions they would require, are detailed in the attached analysis of post-Trusteeship Federal responsibilities in Micronesia.

It is difficult to assess Micronesian perceptions of which agency should be assigned to handle free association. Micronesian executives have carefully restrained their comments. Micronesian negotiators might be expected to favor the notion of relating to U.S. diplomats, and the Micronesian people might argue that a change is necessary for reasons of prestige. Fundamental U.S. interests are involved, however, and the Micronesian attitudes need to be taken into account within the overall context of our national interests. All Micronesian leaders have supported the position that the assignment of a Federal agency to perform the post-Compact administrative function is an internal matter for the Federal Government to decide.

The administrative approach taken by the Department of the Interior toward Micronesia will necessarily change when the legal basis for the relationship changes.

The Interior Department would deal with the Micronesian presidents as freely-elected local chief executives, not as wards under the Trusteeship. The relationship will change to match the status of the Micronesian governments and to account for the new responsibilities the Micronesian governments will assume. Somewhat ironically, the relationship will be one that is not far different from the relationship between the Interior Department and the locally-elected governors of the territories.

There will, of course, be instances where Micronesian questions deserve the attention of more than one Federal agency. That is frequently the case with respect to Guam and other U.S. territories. Under the Compact of Free Association, there are special institutional provisions that guarantee that the concerns of the State Department and the Defense Department are met. The Department of the Interior does not propose to undermine those provisions but to enhance them.

In short, for reasons that are basic to the permanence and closeness of the relationship that is established between the Federal Government and the Freely Associated States, the Department of the Interior believes that it should retain administrative responsibility for managing the Federal relationship to Micronesia after the Compact becomes effective. At the present time, however, the question is not which agency should be designated for the future role, but how best to proceed with the resumption of the negotiations on the Compact. The Department of the Interior is, therefore, content to concur with the recommendation that the decision on post-Trusteeship administration be deferred.

Attachments

ANALYSIS OF
Post-Trusteeship Federal Responsibilities in Micronesia

Negotiations leading toward the termination of U.S. trusteeship over the Trust Territory of the Pacific Islands have developed a status called "free association." The term "free association" is unprecedented in American territorial relations (although some would argue that Puerto Rico is an example of the status), and has few parallels in international relations (New Zealand's relationship to the Cook Islands is a similar arrangement). Because the parties to the relationship each exercise specified aspects of sovereignty, the relationship is not a territorial one, nor is it an international one. If free association is to be the relationship between the United States and Micronesia, the Federal Government must soon address the question of which Federal agency should administer and maintain that relationship. Thus far, discussions have centered on two agencies: the Interior Department, which has held the responsibility for the conduct of the United States territorial policy, and the State Department, which is responsible for the conduct of international relations.

A number of concerned Federal officials and Congressmen have addressed the issue in terms of the potential long-range effect on U.S.-Micronesian relations of administration by one or the other agency. This memorandum is an attempt to discuss the elements of the free association relationship as they have, at this point, been negotiated between the Micronesian governments and the United States. While the Compact of Free Association describes a seemingly unprecedented relationship, it is similar to any agreement in that it defines the duties and responsibilities of the parties. The question that this memorandum addresses is which agency is best suited to discharge the Federal obligations that are described in the Compact.

SUMMARY

The following chart identifies provisions of the Compact that are characteristically Foreign Affairs matters, Domestic Federal matters, and Defense matters:

POST-TRUSTEESHIP FEDERAL RESPONSIBILITIES IN MICRONESIA
CONTAINED IN SECTIONS
OF THE COMPACT OF FREE ASSOCIATION

State Department, Foreign Affairs Responsibilities	Domestic Agency Responsibilities	Defense Department or Interagency Matters
122 - Training of Micronesian FSOs 123 - Consultation on Foreign Affairs 124, 125 - Foreign Affairs assistance 126 - Consular functions for Micronesian citizens traveling abroad 151-153 - "Representation"	131 - Notification of Frequency Registration, and 132 - Preservation of Frequencies for Federal Use 141-144 - Citizenship, nationality entry into U.S. 151-153 - "Representation" 161, esp. 161(a)(3) concerning environmental protection laws 174(b) and (c) Claims against TTG and USG 211 - Basic Financial grants to FAS 211-219 - Financial Assistance Oversight 221-227 Federal Programs Coordination 235 US to designate Trustee for Trust Funds 251-255 Taxation provisions.	227 - "CAT" teams
313 - possible role for Sec. State in FAS complaints procedure; US to refrain from Foreign Affs. activities harmful to FAS	313 Possible role in coordinating FAS complaint procedure 351 Jt. Comm. participation helpful	313- Procedure for FAS complaints to Sec. Defense and State. 351-Jt. Comm to handle disputes
421-424 Arbitration	421-424 Arbitration Board	421-424 Arbitration 431,432-Amendment, IAG problem 441-454 - Termination, IAG problem

CHART I

Certain provisions of the Compact are specifically connected to the interests of a particular agency. Provisions concerning U.S.-Micronesian coordination of Micronesian foreign affairs, for example, is a matter that must fall to the State Department. Similarly provisions concerning the resolution of claims from damages of U.S. Defense activities in the Federated States of Micronesia are singularly the responsibility of the Defense Department. The following chart shows the responsibilities contained in the Compact that <u>are not</u> clearly the responsibility of a particular agency. These provisions of the Compact cross departmental lines of interest, and will require that the agency principally responsible for the conduct of the relationship between the United States and the Micronesian governments will have to coordinate the activities of other agencies. As in the chart above, these responsibilities are divided between those that are essentially Foreign affairs, Domestic, and Defense activities:

CHART II

POST-TRUSTEESHIP FEDERAL RESPONSIBILITIES IN MICRONESIA CONTAINED IN SECTIONS OF THE COMPACT OF FREE ASSOCIATION

State Department, Foreign Affairs Responsibilities	Domestic Agency Responsibilities	Defense Department
122 Training of Micronesian FSOs		
	131 Frequency Registration, and,	
	132 Frequencies for Federal Use	
	141-144 Citizenship, nationality, entry into U.S.	
151-153 "Representation"	151-153 "Representation"	
	161, esp. 161(a)(3) Environmental protection	
	174(b) and (c) Claims against TTG and USG	
	211 Basic Financial grants to FAS	
	211-219 Financial Assistance Oversight	
	221-227 Federal Programs Coordination	
	235 Trustee for Trust Funds	
	251-255 Taxation	
313 Sec. State role in FAS complaints procedure	313 Possible role in coordination FAS complaint procedure	313 FAS complaints to be handled by Sec Defense and Sec State
	351 Jt. Comm. participation	
421-424 Arbitration	421-424 Arbitration	421-424 Arbitration

Note that in the second chart, provisions concerning Amendment of the Compact (sections 431-432) and termination of the Compact (sections 441-454) have been deleted. Those provisions are not routine interagency matters but are matters for an Interagency Group, similar to that which has supervised the negotiations, made up of high-level representatives from all concerned Federal agencies who prepare decision memoranda for Presidential review.

Section-by-section analysis of the administrative responsibilities contained in the Compact

The Compact is divided into Titles (numbered One through Four, Governmental Relations, Economic Relations, Security and Defense Relations, and General Provisions, respectively), Articles (identified with Roman numerals and captioned), and Sections (numbered only).

TITLE ONE - GOVERNMENTAL RELATIONS

Article I, entitled "Self-Government", contains one section (numbered 111) stating that the peoples of Palau, the Marshall Islands, and the Federated States of Micronesia are self-governing. This section requires no administrative action by the United States, since the Federal Government is not responsible for "governing" Micronesia, any more than it is responsible for administration of the U.S. territories or foreign governments. Many provisions of the Compact set forth the rights or responsibilities of the Micronesian parties, and require no direct Federal administrative role (other than that of being cognizant of the rights and responsibilities of the Micronesian parties). This paper will address only those sections of the Compact that impose a United States administrative obligation.

Section 122 commits the United States to offering foreign service training for Micronesian diplomatic personnel. The State Department will be responsible for making this training available to the Micronesians, and it is assumed that the Foreign Service Institute will open its classes to Micronesian Foreign Service Officers. There may be no need for another agency to intervene with the State Department on behalf of the Freely Associated States (FAS) when this training is requested. In this and other cases where Federal "programs" are to be made available to the Micronesians, however, it may be advantageous to have one Federal agency urging another to fulfill the requirements of the Compact. More than likely, the Federal agency responsible for maintaining the U.S.-Micronesian relationship will need to represent Micronesian interests by asking the program agency (in this instance, the State Department) to address administrative questions that will enable the programs to operate more smoothly for Micronesian participants. Such administrative questions could include, in this instance, funding for Micronesian participants and priority of training slots for Micronesians.

Section 123 involves substantial State Department attention to Micronesia. It requires consultations in matters of foreign affairs, by the governments of the FAS when they take diplomatic actions, and by the government of the United States when it takes actions that relate to or affect the FAS. The

responsibility to consult with the Micronesians in the conduct of foreign affairs so that Micronesian policy does not conflict with U.S. policy is clearly one that should be vested in the State Department. The participation of an additional agency of the Federal Government might guarantee to Micronesians that Micronesian foreign policies are given adequate attention and that the State Department's corresponding commitment to consult with the Micronesians is fulfilled.

Sections 124 and 125 set out U.S. foreign affairs assistance to Micronesian governments, and will necessarily be handled by the State Department. The involvement of a separate agency that could not be seen as having an interest in potentially competitive, foreign objectives may be beneficial to the handling of Micronesian concerns.

Section 126, affording Micronesians treatment as United States citizens when they travel overseas, should be handled routinely by the Department of State, as it now is.

Sections 131 and 132 on Communications require the United States to take certain actions to preserve the radio broadcasting frequencies that are currently in use in the Trust Territory of the Pacific Islands, so that they can be used by the FAS. It is envisioned that the Marshalls will attempt to register frequencies by itself, possibly after gaining membership in the International Telecommunication Union. In Palau and the Federated States of Micronesia, however, the United States will have clear responsibilities for registering broadcast frequencies. The frequencies now used exclusively by the TTPI are frequencies that are registered by the United States, assigned to the Department of Defense, and reassigned to the Department of the Interior for use in the TT. Interior has handled these frequencies since the 1950's. It would not be impossible to transfer the assignment of the frequencies to the Department of State, since State negotiates U.S. frequency rights generally. In managing frequencies for the FAS, however, the State Department could be susceptible to charges from Micronesians that a conflict of interest exists between preserving frequencies for Micronesians and making frequencies available to other nations in Asia or the Pacific that might desire to use the frequencies. This concern was expressed in negotiations by Micronesian attorneys in October, 1980. It would prove advantageous in the Federal relationship to the FAS to remove the control of the frequencies, as much as possible, from foreign relations questions.

Section 132 guarantees that frequencies needed to fulfill US commitments under the Compact (such as transmitting weather data, etc.) will be available for use by US agencies. This section, which guarantees broadcasting capabilities for the FAA, the Weather Service, the Postal Service, and other Federal agencies operating in the FAS, should be coordinated by the agency that registers the frequencies.

Sections 141-144 deal with citizenship, nationality, and entry into the United States. It is likely that implementation of these provisions will be left to the Immigration and Naturalization Service, because it already performs this role as to the Trust Territory, as it does for the U.S.

generally. But because the provisions in the Compact are special, and unique to citizens of the FAS, officials of the Immigration and Naturalization Service will occasionally need advice and assistance from a Federal agency that has daily cognizance of events in, and general administrative responsibility for, the FAS. The Federal administrative function, in this instance, would not be dissimilar from the current situation in U.S. territorial administration. Territorial citizens often encounter difficulties in the administration of the Immigration and Nationality Act, when it is not clear to INS officials what the territorial citizen's status is, and a phone call between the Interior Department and the Justice Department usually resolves the question.

Sections 151-153 deal with U.S. Administrative "representation" in the FAS, and FAS "representation" in the United States. "Representation" implies an administrative authority responsible to his government for conducting the U.S.-Micronesian relationship. These sections set out the rights of the respective representatives, but do not address specific details of numbers of representatives, locations in which they will serve, their rank or title, or their agency affiliation.

Some have suggested that the State Department would send an Ambassador to the FAS, perhaps to establish his office in Guam, with 3 deputy ambassadors to serve in Palau, the Federated States of Micronesia, and the Marshalls. These four would coordinate Federal programs in their respective areas, and the Ambassador would be the chief Federal official in the FAS. As is the case in foreign countries, all United States activities in the FAS would be monitored by the Ambassador. As such, the scheme fits neatly into the State Department's usual mode of operations. Foreign Service Officers could serve in Koror, Ponape, and Majuro posts for two-year stints, and the FAS would be treated much the same as any foreign area.

The Department of the Interior could, of course, establish a similar structure. If Interior were to be responsible in the area, this structure would have certain advantages. While the chief official in the FAS might well be an appointed official, his deputies might see their involvement in the FAS in longer terms than two-year assignments. Within the Interior Department, an assignment to the FAS might well be viewed as a highly desirable and exotic one, while it might attract comparatively little attention and be disfavored in the State Department.

It is practically impossible to predict the caliber of personnel that either agency might bring to the FAS, but administration by Interior would tend to link the FAS to domestic policy in the United States, and administration by the State Department would tend to link the FAS to foreign policy.

The role of an Interior Department official in Micronesia, supervising Federal activities in Micronesia, would be almost identical to the role the High Commissioner of the Trust Territory has performed since Secretarial Order 3039 transferred many of his direct governmental responsibilities to Micronesian governments established by Micronesian constitutions. In both situations, the Federal responsibility is to manage the conduct of Federal program activities and monitor Federal funds. The Representative of the

United States in Micronesia would also have the responsibility that the High Commissioner now has of keeping track of and reporting on Micronesian affairs and serving as Washington's man on the scene. The High Commissioner now has additional responsibilities required by his duties under the Trusteeship Agreement (including suspension authority over laws passed by the legislatures of the Micronesian governments) but those responsibilities would disappear with the termination of the Trusteeship.

One extremely important consideration is whether the Interior Department or the State Department could coordinate the Federal programs operations in the FAS more effectively. Since the daily operations of the FAA, the Weather Service, and the Postal Service are likely to run smoothly on the local level, the question becomes one of which agency can muster high-level attention in Washington to difficult problems that will arise from time to time as these agencies try to adapt their regulations to the peculiar circumstances of the FAS.

Section 161 concerns the enforcement of environmental protection controls in Federal operations in the FAS. These sections will be binding on whatever Federal agency receives administrative responsibility for the FAS. There is a Federal interest, however, in making certain that the agency has sufficient legal expertise in its legal offices to handle environmental protection problems and is capable of coordinating Micronesian matters with the Environmental Protection Agency. The application of these domestic regulations to U.S. operations is a matter that is more frequently dealt with as a domestic responsibility.

Section 174 deals with legal claims against the United States or the Trust Territory of the Pacific Islands. The Interior Department has had decades of experience in handling such claims, and it can be expected that claims against the Trust Territory would continue to require attention from the Interior Department. The Department of Justice would handle litigation when necessary. Because of the involvement of the Department of Justice, and because it is likely that the claims will be brought by individuals in the FAS rather than the governments of the FAS, this section is not likely to impose a conflict of interest for the Department of the Interior acting in the role of manager of the Federal relationship to the FAS.

TITLE TWO - ECONOMIC ASSISTANCE

Sections 211-219 detail the basic financial grants that will be made to the FAS during the period of Free Association. Grants are provided for operating expenses of the FAS, capital development projects, and certain specific purposes. Some are to be expended in accordance with national development plans written by the governments of the FAS and concurred in by the United States. The Federal responsibility will be to guarantee that the funds are made available to the FAS in a timely fashion, that they are expended in accordance with the national plans, and that they are accomplishing their purposes. Congress may demand that a Federal agency have cognizance over the handling of these Federal funds, much in the same way that funds for territorial capital development are currently handled. This general financial assistance process is similar to that provided to several of the U.S. territories. The process is one of providing primary

financial support to local governments. It could be handled by the Interior Department's territorial affairs office in a rather routine manner, with the flexibility that is characteristic of assistance to U.S. territories. The State Department's parallel granting agency is the Agency for International Development.

Sections 221-227 contain Federal Program commitments. As mentioned above, these commitments will be performed by the FAA, Weather Service, CAB, the Postal Service, and Health and Human Services, through operations that the agencies themselves establish, in accordance with subsidiary agreements of the Compact. Federal efforts in the FAS will probably need to be coordinated by a single Federal agency to insure efficient compliance with policy objectives and to ease certain administrative difficulties that the agencies may face in carrying out their responsibilities in Micronesia. It is possible that the State Department could supervise these Federal activities in the manner that ambassadors currently supervise a (usually) lower level of Federal program activity in foreign countries. More is involved than simply determining that Federal activities do not incur the wrath of the host government.

The exact level of Federal program involvement in Micronesia has not yet been determined, and it may one day present a larger administrative and coordinating responsibility than is currently envisioned. To a large extent, the requirements for Federal program coordination will depend on the effectiveness of the local leadership in dealing directly with Federal agencies when problems arise. It is likely that there will be administrative and policy questions that arise from time to time in the FAS, relating to Federal programs. Some of these problems will include: deadlines and schedules that appear to be unconscious of Micronesian communication and transportation problems; special grant needs; program officials who are not familiar with the peculiar requirements of administration in Micronesia; and occasional unanticipated changes in Federal programs authorizations or regulations that appear to conflict with commitments in the Compact. These problems are encountered in the grant programs applicable to the U.S. territories.

Section 227 concerns Civic Action Teams, supplied by the Department of Defense, in the Federated States of Micronesia. The work done by the teams has, in the past, been coordinated with the Trust Territory Government. Assignments for road building and other projects undertaken by the teams have been developed in consultation with the Trust Territory Government and local leadership. Under Free Association, there is no doubt that the assignments for the teams will come directly from the local Micronesian government, and administration of the work will, of course, be handled by the Department of Defense. It may be helpful to both Defense and to the Micronesian entities, however, to have another Federal agency to turn to if problems arise at CAT camps, or if a Federal civilian viewpoint is needed for assistance in coordinating the work of the teams, or resolving problems that may arise from time to time between team members and Micronesians.

In Section 235, the United States agrees to appoint a Trustee of trust funds to take the place of the High Commissioner, who currently acts as trustee of

certain funds. The appointment is to be made in consultation with the governments of Palau, the FSM, and the Marshalls, as appropriate. The institutional memory for the handling of these funds is in the Interior Department. The Interior Department also administers many similar trust funds, on behalf of American Indians.

Sections 251-255 are provisions relating to taxation. Section 255 is a tax provision somewhat like the income tax provisions contained in the Organic Acts of Guam and the Virgin Islands. Under this provision, it appears that the income tax obligations of American citizens working in the FAS would be paid to the Internal Revenue Service and covered into the treasuries of the FAS. Administrative cognizance for, and an understanding of the legal development of, this arrangement in Guam and the Virgin Islands resides in the Department of the Interior's territorial affairs office as well as in the Treasury Department. Interior has worked with the Internal Revenue Service and the Department of the Treasury which would have significant administrative responsibilities under the arrangement.

TITLE THREE - SECURITY AND DEFENSE RELATIONS

Two provisions of the security and defense aspects of the Compact require the establishment of committees to resolve difficulties that might arise as a result of Defense operations in Micronesia. Section 313 sets up a procedure for consultations between the FAS and the US on Defense matters, guaranteeing that the FAS have access to the Secretaries of State and Defense for their grievances. Section 351 establishes a Joint Committee to consider disputes that arise under Title III of the subsidiary military rights agreements. The Joint Committee could consist merely of Micronesian and Department of Defense representatives. It could be beneficial, in terms of improving the Federal relationship to the Freely Associated States to have an independent Federal agency, not responsible for overall U.S. strategic or foreign relations objectives, assisting the Micronesians in these discussions.

TITLE FOUR - GENERAL PROVISIONS

Sections 421-424 establish an Arbitration Board to hear grievances of the Micronesian entities. As with the Joint Committee that will meet to discuss disputes arising under Title III, this Board might benefit from a Federal agency assisting the Micronesian entity.

Sections 431 and 432 deal with the Amendment procedure for the Compact. This process will require input from the agencies that were originally parties to the negotiations (e.g., State, Defense, Interior, etc.) and will, therefore, require the consideration of an interagency group. Any Federal agency could convene or chair such a group, although State has done so during recent years, at the request of the National Security Council.

Similarly, the termination provisions contained in sections 441-454 are matters that would require the attention of an interagency group.